
DIRECTOR'S ORDER UNDER SECTION 157
OF THE *CONSUMER PROTECTION ACT* (formerly the *Fair Trading Act*)
TO
ADT SECURITY SERVICES CANADA, INC.
AND
ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF
ADT SECURITY SERVICES CANADA, INC.

This Director's Order was issued under s. 157(1) of the *Fair Trading Act* in response to, in the opinion of the Director, contraventions of the Act. As mandated by s. 157.1(1) of the *Fair Trading Act*, this Director's Order is part of the public record.

Albertans who have questions or concerns about this business are encouraged to contact the Service Alberta Consumer Contact Centre at 1-877-427-4088.

For more information on the *Fair Trading Act*, business licensing in Alberta or to search for a licensed business, please click here:

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Service Alberta

DIRECTOR'S ORDER UNDER SECTION 157 OF THE CONSUMER PROTECTION ACT (formerly known as the FAIR TRADING ACT)

TO

ADT SECURITY SERVICES CANADA, INC.

AND TO

ANY EMPLOYEE, REPRESENTATIVE, AGENT OR ASSOCIATE OF

ADT SECURITY SERVICES CANADA, INC.

ISSUES

On May 12, 2016 and on June 21, 2016 salespeople employed by Intelife Security & Automation Ltd. on behalf ADT Security Services Canada, Inc. entered into two separate direct sales contracts with Albertan consumers for the installation of home security systems and the ongoing monitoring of those system, each for a 60 month term.

The contracts used to enter into said contracts did not conform to the requirements of section 35 of the *Consumer Protection Act* (Act). The contracts did not contain a statement of cancellation rights that conforms to the requirements set out in the regulations as required under section 35(f) of the Act, nor did they contain the total amount of the direct sales contract as required under section 35(h) of the Act.

ADT Security Services Canada, Inc. is a licensed Direct Sales Business under section 104(1) of the Act. Use of a compliant written direct sales contract is required of all Direct Sales Businesses.

The Albertan consumer who entered into the direct sales contract on May 12, 2016 subsequently cancelled that contract by exercising the extended cancellation rights granted under section 28(2) of the Act because the direct sales contract did not comply with the necessary contract requirements. That cancellation occurred on March 13, 2017 via letter.

The cancellation requirements were not met by ADT Security Services Canada, Inc. until February 16, 2018, at which time the supplier acknowledged cancellation of the contract and asked the consumer to sign and return a "Full and Final Release" document. ADT Security Services Canada, Inc. then waived all 'outstanding' fees for said consumer.

The amount of time that lapse between the consumer's cancellation and when the cancellation requirements were met by ADT Security Services Canada, Inc. did not comply with section 31(2) of the Act which requires a refund to be issued to the consumer within 15 days after cancellation.

LEGISLATION

Consumer Protection Act

Section 28(1) – in addition to the right of cancellation under section 27, a consumer may cancel a direct sales contract in the circumstances set out in this section.

(2) A consumer may cancel a direct sales contract within one year from the date the direct sales contract is entered into, (a) if the supplier was required to be licensed under Part 10 and was not licensed at the time the direct sales contract was concluded, or (b) if the direct sales contract does not include all the information required under section 35.

Section 31(2) – Within 15 days after a direct sales contract is cancelled, the supplier must refund to the consumer all money paid by the consumer and return to the consumer's premises any trade-in or an amount equal to the trade-in allowance.

Section 104(1) – no person may engage in a designated business unless the person holds a licence under this Act that authorizes the person to engage in that business.

Section 157 (1) – If, in the opinion of the Director (a) a person is contravening or has contravened this Act or the regulations, (b) a regulated person is using any form, agreement, letter or other document that is misleading or contains a term that misrepresents this Act or the regulations, or (c) a print, broadcast or electronic publisher, including but not limited to a publisher of telephone directories and Internet listings, is publishing or has published an advertisement that is misleading or contains a term that contravenes this Act or the regulations, the Director may issue an order directed to the person or publisher.

(2) An order may direct the person or publisher to (a) to stop engaging in anything that is described in the order, subject to any terms or conditions set out in the order, and (b) to take any measures specified in the order, within the time specified, to ensure that this Act and the regulations are complied with.

(3) A person or publisher who is subject to an order under this section may appeal under section 179.

Section 157.1 (1) The Director must maintain a public record of undertakings, Director's orders, court orders and injunctions and any other prescribed document or information.

(2) The Director may prescribe the form of the public record referred to in subsection (1) and which documents must or may be included.

(3) The Director must maintain a public record of administrative penalties and may prescribe the form of the public record and the documents and information that must or may be included in it.

Designation of Trades and Businesses Regulation

3(1) – Part 10 of the *Fair Trading Act* applies to the direct selling business.

(2) In this section, "direct selling business: means the activities of soliciting, negotiating or concluding in person, at any place other than the seller's place of business, sales contracts, including direct sales contracts to which Part 3 of the *Fair Trading Act* applied, for the provision of goods or services, where the buyer is a consumer.

ORDER

ADT Security Services Canada, Inc. individually or through any employee, representative, agent or associate must:

- ensure that the direct sales contract requirements under section 35 of the *Consumer Protection Act* are met; and
- ensure that the effect of cancellation requirements under section 31(2) of the *Consumer Protection Act* are met upon a consumer's cancellation.

NON-COMPLIANCE WITH ORDER

ANY PERSON WHO FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR UNDER SECTION 157 OF THE *CONSUMER PROTECTION ACT* CONTRAVENES THIS ACT AND IS GUILTY OF AN OFFENCE AND MAY BE PROSECUTED PURSUANT TO SECTION 163 OF THE *CONSUMER PROTECTION ACT*.



Deborah Wagar
Director of Fair Trading (as delegated)
August 21, 2018

